

**REMARKS**

Applicants submit this reply in response to the non-final Office Action mailed April 6, 2007. Applicants respectfully traverse all pending objections and rejections and request reconsideration of the application, as amended.

Before this response, claims 1-9 were pending, of which claims 1, 5, and 9 were independent. In this response, Applicants have amended claims 1, 4, 5, 8, and 9 to incorporate proposed claim amendments that Applicants' undersigned representative discussed with the Examiner in a telephone interview on June 1, 2007, and again on June 12, 2007. In that latter discussion, the Examiner requested that Applicants submit their proposed claim amendments in the next response and incorporate the subject matter of proposed claim 3 into the independent claims. Accordingly, Applicants have amended the claims as the Examiner suggested and have canceled claims 3 and 7 without prejudice or disclaimer. In addition, Applicants have added new claim 10, containing similar subject matter as amended independent claim 1. As a result of these amendments, claims 1, 2, 4-6, and 8-10 are currently pending, of which claims 1, 5, 9, and 10 are independent.

In the non-final Office Action dated April 6, 2007, the Examiner rejected claims 1-9 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner rejected claims 1, 5, and 9 under 35 U.S.C. § 112, ¶ 2 for failing to particularly point out and distinctly claim the invention. Finally, the Examiner rejected claims 1-9 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0233523 ("Jamil"). Applicants respectfully traverse these rejections, as discussed in more detail below.

**35 U.S.C. § 101 Rejections**

The Examiner rejected claims 1-9 under 35 U.S.C. § 101 because “[t]he last step of the claim [1] recites a determining step (if). Since mere determination is not a tangible result, the claim fails to recite a useful, concrete, and tangible result.” Non-final Office Action dated April 6, 2007, p. 7. In response, Applicants have amended the independent claims to remove the “if” clause that formed the basis for the 35 U.S.C. § 101 rejections. Accordingly, Applicants respectfully submit that these Section 101 rejections should be removed.

**35 U.S.C. § 112, ¶ 2 Rejections**

The Examiner rejected claims 1, 5, and 9 under 35 U.S.C. § 112, ¶ 2 because “the phrase ‘may be’ renders the claim(s) indefinite.” Non-final Office Action dated April 6, 2007, p. 8. Applicants have amended these claims to remove clauses containing the phrase “may be,” thereby obviating the pending Section 112 rejections.

**35 U.S.C. § 102(e) Rejections**

As noted, the Examiner conducted a telephone interview with Applicants’ undersigned representative on June 1, 2007, to discuss the then-pending claims 1-9 in view of U.S. Patent Application Publication No. 2003/0233523 (“Jamil”). See Interview Summary dated June 5, 2007. The Examiner acknowledged that the invention could be distinguished over Jamil, and requested that the claims be amended to recite specific state transitions among the claimed first, second, and third states.

Applicants respectfully submit that the pending claims have been amended to recite specific state transitions, as suggested by the Examiner, thereby distinguishing

the pending claims over the art of record. For example, representative independent claim 1, as presently amended, calls for a combination including, among other things:

- “a first state, in which said electronic data element is accessible by one or more data object processing operations and whereby said identifier is assignable to one or more data objects stored in a memory”;
- “a second state, in which said electronic data element is not accessible by one or more data object processing operations and whereby said identifier is assignable to one or more data objects stored in a memory”;
- “a third state, in which said electronic data element is not accessible by one or more data object processing operations and whereby said identifier is not assignable to one or more data objects stored in a memory”;
- “setting the state of the identifier to the first state”;
- “changing the state of the identifier from the first state to the second state while at least some of the one or more assigned data objects are being processed by the one or more data object processing operations”;
- “changing the state of the identifier to the third state when the one or more assigned data objects are finished being processed by the one or more data object processing operations”; and
- “replicating, after changing the state of the identifier to the third state, the one or more assigned data objects from the memory in the source system to a memory in the target system.”

As discussed with the Examiner, Jamil fails to teach or suggest at least the above-noted claimed first, second, and third identifier states and their respectively claimed state transitions for replicating data objects from a source system to a target system, as recited in Applicants' amended independent claim 1. For at least this reason, Applicants respectfully submit that independent claim 1, as presently amended, is allowable over the art of record.

Amended independent claims 5, 9, and 10, although different in scope from amended independent claim 1, recite similar claim language and are thus allowable over the art of record for at least the same reasons. Dependent claims 2, 4, 6, and 8 depend on allowable independent claims 1 or 5 and are therefore allowable for at least the same reasons.

### **Conclusion**

The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability is advanced without prejudice to other bases of patentability.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

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Respectfully submitted,

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